IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 30455 of 2007(A)

PETITIONER:

KARTHIAYANI SARASWATHY,
KRISHNANANDHA MADOM, NEAR MAHESAN VAYANASALA,
KADINAMKULAM, TRIVANDRUM.

BY ADV. SRI.SIBY MATHEW,
ADV. SRI.PHILIP J.VETTICKATTU.

RESPONDENTS:
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1. **ANITHAKUMARI,**
   S.K.MADAM(KP IV/1192), CHATHAYAM,
   CHANNANGARA DESOM, KADINAMKULAM.

2. **THE SUB INSPECTOR OF POLICE,**
   KADINAMKULAM, TRIVANDRUM.

3. **THE CIRCLE INSPECTOR OF POLICE,**
   KAZHAKKOOTAM, TRIVANDRUM.

4. **THE DY. SUPERINTENDENT OF POLICE,**
   ATTINGAL, TRIVANDRUM.

BY GOVT. PLEADER SRI. SALIM.P.A.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.30455 of 2007-A

Judgment

Balakrishnan Nair, J.

The petitioner is in possession of a building and 13.75 cents of land in RS No.260 in Kazhakkoottam village. The said property belongs to her mentally retarded brother. Both of them were residing there and the petitioner was looking after the said brother Vijayakumar. To raise funds for the treatment of him, the petitioner has rented out a portion of the building wherein two persons named Manu and Dini, are residing. There was an oral understanding in the family of the petitioner that after the death of the above said Vijayakumar, the property will be given to the petitioner. But, immediately after his death, the petitioner's brothers tried to throw out her and reduce the property to their possession. Later, they assigned their rights in that property in favour of the 1st respondent herein. When forceful eviction of the petitioner was attempted, she filed OS No.128/07 and obtained an interim injunction against forceful eviction. The 1st respondent filed OS No.197/07. The said respondent also filed an application for injunction against the petitioner. Both the

applications were heard together and the injunction in favour of the petitioner was made absolute by Ext.P2. The injunction application of the 1st respondent was dismissed by Ext.P3. Even thereafter, the 1st respondent is coming and harassing the petitioner and trying to throw her out. Therefore, the petitioner has preferred Ext.P6 representation before the Circle Inspector, Ext.P7 representation before the Deputy Superintendent of Police and finally she has filed Ext.P9 representation before the SI of Police, seeking protection against the high handed actions of the 1st respondent and also against her brothers and thereafter, this Writ Petition is filed seeking appropriate reliefs. If Ext.P2 interim order is violated, the remedy of the petitioner is to move the civil court for appropriate reliefs. The court has ample powers to redress the grievance of the petitioner and it may even address the Police to render assistance to the petitioner. But the learned counsel for the petitioner points out that if an application is filed alleging violation of Ext.P2, normally, it will be posted along with the suit and it will never be taken up. We cannot agree with the said contention. Normally, the court concerned is bound to dispose of the same without delay. If there is inordinate delay in disposing of the same, the petitioner can approach this Court under Article 227 of the Constitution of

India. The approach made by the petitioner before the Police before approaching the civil court for appropriate reliefs for the violation of the injunction order and thereafter, the filing of this Writ Petition before this Court, seeking a writ of mandamus against the Police, cannot be upheld. In a civil dispute of this nature, the proper remedy has to be worked out before the civil court. Without attempting to do that, the frog leap made to this Court has to be repelled. In the result, the Writ Petition fails and it is dismissed without prejudice to the contentions of the petitioner and her right to move the competent civil court for appropriate reliefs. If any physical harm is done by somebody to her and the Police are not taking any action on being informed of the same, then also the petitioner can approach this Court under Article 226 of the Constitution of India.

K.BALAKRISHNAN NAIR,JUDGE

15.10.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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